

# S. CON. RES. 161

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## CONCURRENT RESOLUTION

1       *Resolved by the Senate (the House of Representatives*  
2   *concurring)*, That the Clerk of the House of Representa-  
3   tives, in the enrollment of the bill (H.R. 5528) to author-  
4   ize the construction of a Wakpa Sica Reconciliation Place  
5   in Fort Pierre, South Dakota, and for other purposes,  
6   shall make the following correction:

7               (1) Strike title XII and insert the following:

8       **TITLE XII—NAVAJO NATION**  
9       **TRUST LAND LEASING**

10   **SEC. 1201. SHORT TITLE.**

11       This title may be cited as the “Navajo Nation Trust  
12   Land Leasing Act of 2000”.

13   **SEC. 1202. CONGRESSIONAL FINDINGS AND DECLARATION**  
14       **OF PURPOSES.**

15       (a) FINDINGS.—Recognizing the special relationship  
16   between the United States and the Navajo Nation and its  
17   members, and the Federal responsibility to the Navajo  
18   people, Congress finds that—

1           (1) the third clause of section 8, Article I of the  
2       United States Constitution provides that “The Con-  
3       gress shall have Power . . . to regulate Commerce  
4       . . . with Indian tribes”, and, through this and  
5       other constitutional authority, Congress has plenary  
6       power over Indian affairs;

7           (2) Congress, through statutes, treaties, and  
8       the general course of dealing with Indian tribes, has  
9       assumed the responsibility for the protection and  
10      preservation of Indian tribes and their resources;

11          (3) the United States has a trust obligation to  
12      guard and preserve the sovereignty of Indian tribes  
13      in order to foster strong tribal governments, Indian  
14      self-determination, and economic self-sufficiency;

15          (4) pursuant to the first section of the Act of  
16      August 9, 1955 (25 U.S.C. 415), Congress conferred  
17      upon the Secretary of the Interior the power to pro-  
18      mulgate regulations governing tribal leases and to  
19      approve tribal leases for tribes according to regula-  
20      tions promulgated by the Secretary;

21          (5) the Secretary of the Interior has promul-  
22      gated the regulations described in paragraph (4) at  
23      part 162 of title 25, Code of Federal Regulations;

24          (6) the requirement that the Secretary approve  
25      leases for the development of Navajo trust lands has

1 added a level of review and regulation that does not  
2 apply to the development of non-Indian land; and

3 (7) in the global economy of the 21st Century,  
4 it is crucial that individual leases of Navajo trust  
5 lands not be subject to Secretarial approval and that  
6 the Navajo Nation be able to make immediate deci-  
7 sions over the use of Navajo trust lands.

8 (b) PURPOSES.—The purposes of this title are as fol-  
9 lows:

10 (1) To establish a streamlined process for the  
11 Navajo Nation to lease trust lands without having to  
12 obtain the approval of the Secretary of the Interior  
13 for individual leases, except leases for exploration,  
14 development, or extraction of any mineral resources.

15 (2) To authorize the Navajo Nation, pursuant  
16 to tribal regulations, which must be approved by the  
17 Secretary, to lease Navajo trust lands without the  
18 approval of the Secretary of the Interior for the indi-  
19 vidual leases, except leases for exploration, develop-  
20 ment, or extraction of any mineral resources.

21 (3) To revitalize the distressed Navajo Reserva-  
22 tion by promoting political self-determination, and  
23 encouraging economic self-sufficiency, including eco-  
24 nomic development that increases productivity and

1 the standard of living for members of the Navajo  
2 Nation.

3 (4) To maintain, strengthen, and protect the  
4 Navajo Nation's leasing power over Navajo trust  
5 lands.

6 (5) To ensure that the United States is faith-  
7 fully executing its trust obligation to the Navajo Na-  
8 tion by maintaining federal supervision through  
9 oversight of and record keeping related to leases of  
10 Navajo Nation tribal trust lands.

11 **SEC. 1203. LEASE OF RESTRICTED LANDS FOR THE NAVAJO**  
12 **NATION.**

13 The first section of the Act of August 9, 1955 (25  
14 U.S.C. 415) is amended—

15 (1) in subsection (d)—

16 (A) in paragraph (1), by striking “and” at  
17 the end;

18 (B) in paragraph (2), by striking the pe-  
19 riod and inserting a semicolon; and

20 (C) by adding at the end the following:

21 “(3) the term ‘individually owned Navajo In-  
22 dian allotted land’ means a single parcel of land  
23 that—

24 “(A) is located within the jurisdiction of  
25 the Navajo Nation;

1 “(B) is held in trust or restricted status by  
2 the United States for the benefit of Navajo In-  
3 dians or members of another Indian tribe; and

4 “(C) was—

5 “(i) allotted to a Navajo Indian; or

6 “(ii) taken into trust or restricted sta-  
7 tus by the United States for an individual  
8 Indian;

9 “(4) the term ‘interested party’ means an In-  
10 dian or non-Indian individual or corporation, or trib-  
11 al or non-tribal government whose interests could be  
12 adversely affected by a tribal trust land leasing deci-  
13 sion made by the Navajo Nation;

14 “(5) the term ‘Navajo Nation’ means the Nav-  
15 ajo Nation government that is in existence on the  
16 date of enactment of this Act or its successor;

17 “(6) the term ‘petition’ means a written request  
18 submitted to the Secretary for the review of an ac-  
19 tion (or inaction) of the Navajo Nation that is  
20 claimed to be in violation of the approved tribal leas-  
21 ing regulations;

22 “(7) the term ‘Secretary’ means the Secretary  
23 of the Interior; and

24 “(8) the term ‘tribal regulations’ means the  
25 Navajo Nation regulations enacted in accordance

1 with Navajo Nation law and approved by the Sec-  
2 retary.”; and

3 (2) by adding at the end the following:

4 “(e)(1) Any leases by the Navajo Nation for purposes  
5 authorized under subsection (a), and any amendments  
6 thereto, except a lease for the exploration, development,  
7 or extraction of any mineral resources, shall not require  
8 the approval of the Secretary if the lease is executed under  
9 the tribal regulations approved by the Secretary under this  
10 subsection and the term of the lease does not exceed—

11 “(A) in the case of a business or agricultural  
12 lease, 25 years, except that any such lease may in-  
13 clude an option to renew for up to 2 additional  
14 terms, each of which may not exceed 25 years; and

15 “(B) in the case of a lease for public, religious,  
16 educational, recreational, or residential purposes, 75  
17 years if such a term is provided for by the Navajo  
18 Nation through the promulgation of regulations.

19 “(2) Paragraph (1) shall not apply to individually  
20 owned Navajo Indian allotted land.

21 “(3) The Secretary shall have the authority to ap-  
22 prove or disapprove tribal regulations referred to under  
23 paragraph (1). The Secretary shall approve such tribal  
24 regulations if such regulations are consistent with the reg-  
25 ulations of the Secretary under subsection (a), and any

1 amendments thereto, and provide for an environmental re-  
2 view process. The Secretary shall review and approve or  
3 disapprove the regulations of the Navajo Nation within  
4 120 days of the submission of such regulations to the Sec-  
5 retary. Any disapproval of such regulations by the Sec-  
6 retary shall be accompanied by written documentation  
7 that sets forth the basis for the disapproval. Such 120-  
8 day period may be extended by the Secretary after con-  
9 sultation with the Navajo Nation.

10 “(4) If the Navajo Nation has executed a lease pursu-  
11 ant to tribal regulations under paragraph (1), the Navajo  
12 Nation shall provide the Secretary with—

13 “(A) a copy of the lease and all amendments  
14 and renewals thereto; and

15 “(B) in the case of regulations or a lease that  
16 permits payment to be made directly to the Navajo  
17 Nation, documentation of the lease payments suffi-  
18 cient to enable the Secretary to discharge the trust  
19 responsibility of the United States under paragraph  
20 (5).

21 “(5) The United States shall not be liable for losses  
22 sustained by any party to a lease executed pursuant to  
23 tribal regulations under paragraph (1), including the Nav-  
24 ajo Nation. Nothing in this paragraph shall be construed  
25 to diminish the authority of the Secretary to take appro-

1 priate actions, including the cancellation of a lease, in fur-  
2 therance of the trust obligation of the United States to  
3 the Navajo Nation.

4 “(6)(A) An interested party may, after exhaustion of  
5 tribal remedies, submit, in a timely manner, a petition to  
6 the Secretary to review the compliance of the Navajo Na-  
7 tion with any regulations approved under this subsection.  
8 If upon such review the Secretary determines that the reg-  
9 ulations were violated, the Secretary may take such action  
10 as may be necessary to remedy the violation, including re-  
11 scinding the approval of the tribal regulations and re-  
12 assuming responsibility for the approval of leases for Nav-  
13 ajo Nation tribal trust lands.

14 “(B) If the Secretary seeks to remedy a violation de-  
15 scribed in subparagraph (A), the Secretary shall—

16 “(i) make a written determination with respect  
17 to the regulations that have been violated;

18 “(ii) provide the Navajo Nation with a written  
19 notice of the alleged violation together with such  
20 written determination; and

21 “(iii) prior to the exercise of any remedy or the  
22 rescission of the approval of the regulation involved  
23 and the reassumption of the lease approval responsi-  
24 bility, provide the Navajo Nation with a hearing on



- 1 the record and a reasonable opportunity to cure the
- 2 alleged violation.”.

Passed the Senate December 11 (legislative day,  
September 22), 2000.

Attest:

*Secretary.*



106TH CONGRESS  
2D SESSION

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## **CONCURRENT RESOLUTION**

To correct the enrollment of H.R. 5528.